

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:15-cv-469-RJC-DSC**

**CHRISTOPHER C. FRISCIA and MARIA A. FRISCIA,**  
  
**Plaintiffs,**  
  
**v.**  
  
**BANK OF AMERICA, N.A.,**  
  
**Defendant.**

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**ORDER**

**THIS MATTER** comes before the Court on Defendant’s Motion To Dismiss and Cancel Lis Pendens, (Doc. No. 3); the Magistrate Judge’s Memorandum and Recommendation (“M&R”), (Doc. No. 8), recommending that this Court grant Defendants’ Motion; Plaintiffs’ Objections to the M&R, (Doc. No. 9); and Plaintiffs’ Motion for Hearing, (Doc. No. 11).

**I. BACKGROUND**

No party has objected to the Magistrate Judge’s statement of the factual and procedural background of this case. Therefore, the Court adopts the facts as set forth in the M&R. Plaintiffs filed their Objections to the M&R on February 16, 2016, (Doc. No. 9), and Defendant filed its Reply on March 4, 2016, (Doc. No. 10). This matter is ripe for adjudication.

**II. STANDARD OF REVIEW**

A district court may assign dispositive pretrial matters, including motions to dismiss, to a magistrate judge for “proposed findings of fact and recommendations.” 28 U.S.C. § 636(b)(1)(A) & (B). The Federal Magistrate Act provides that a district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3).

However, “when objections to strictly legal issues are raised and no factual issues are challenged, de novo review of the record may be dispensed with.” Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). De novo review is also not required “when a party makes general or conclusory objections that do not direct the court to a specific error in the magistrate judge’s proposed findings and recommendations.” Id. Likewise, merely reiterating the same arguments made in the pleadings or motion submitted to the Magistrate Judge does not warrant de novo review. See United States v. Midgett, 478 F.3d 616, 620–21 (4th Cir. 2007); Durkee v. C.H. Robinson Worldwide, Inc., 765 F. Supp. 2d 742, 747 (W.D.N.C. 2011), aff’d sub nom., Durkee v. Geologic Sols., Inc., 502 F. App’x 326 (4th Cir. 2013).

### **III. DISCUSSION**

Under Rule 72(b) of the Federal Rules of Civil Procedure, a district court judge shall make a de novo determination of any portion of an M&R to which specific written objection has been made. Plaintiffs filed their objections to the M&R on February 16, 2016. In light of the standards set forth above, the Court has reviewed Plaintiffs’ objections and finds that they are non-specific and merely restate or rehash the same arguments presented in their opposition to Defendant’s motion to dismiss. (Doc. No. 6). In fact, Plaintiffs state in their objections to the M&R that they “are further reiterate[ing] and explain[ing]” the arguments contained in their original memorandum and that they are “ask[ing] the court to reconsider their arguments on the subject.” (Doc. No. 9 at 1, 3). Consequently, Plaintiffs’ objections do not warrant de novo review.

Nevertheless, this Court has conducted a full review of the M&R, the parties’ memoranda, and other documents of record. After its de novo review, the Court finds that the issues Plaintiffs raised in their opposition to Defendant’s motion to dismiss and in their

objections to the M&R were fully and correctly addressed by the Magistrate Judge, and the Court will not address the same issues a second time. Even reading the pro se objections liberally in an effort to find a specific challenge to the M&R, the Court finds that Plaintiffs have not stated anything that would make this Court find error in the Magistrate Judge's analysis or findings. The Court hereby finds that the analysis and recommendation of the Magistrate Judge is, in all respects, in accordance with the law and should be approved. Accordingly, the Court **ADOPTS** the analysis and recommendation of the Magistrate Judge as its own.

#### **IV. CONCLUSION**

**IT IS, THEREFORE, ORDERED** that:

1. The Magistrate Judge's M&R, (Doc. No. 8), is **ADOPTED**.
2. Defendant's Motion To Dismiss and Cancel Lis Pendens, (Doc. No. 3), is **GRANTED**.
3. Plaintiffs' Complaint, (Doc. No. 1-1), is **DISMISSED with prejudice**, and the Notice of Lis Pendens shall be **cancelled**.
4. The Clerk of Superior Court of Mecklenburg County, North Carolina, shall cancel the Notice of Lis Pendens pursuant to North Carolina General Statute §§ 1-120 and 1-120.1.
5. Plaintiffs' Motion for Hearing, (Doc. No. 11), is **DISMISSED as moot**.
6. The Clerk of Court is directed to close this case.

Signed: March 29, 2016



Robert J. Conrad, Jr.  
United States District Judge

